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HOUSE OF REPRESENTATIVES

REPORT
No. 98-202

EMERGENCY PUBLIC WORKS EMPLOYMENT ACT OF 1983

MAY 17, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

together with

ADDITIONAL, SUPPLEMENTAL AND MINORITY VIEWS

[To accompany H.R. 2544]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 2544) to provide an emergency public works jobs program by authorizing the construction of short-term infrastructure repair projects, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

INTRODUCTION

Unemployment currently is at 10.2% nationally, with joblessness in the construction trades above 20%, and expected to remain at unacceptably high levels for the foreseeable future.

At the same time, the nation's vast portfolio of investment in public capital has suffered neglect for the past several decades. Many local facilities such as roads, streets and bridges, water and sewer lines, and municipal and school buildings are in urgent need of repair.

H.R. 2544, the Emergency Public Works Employment Act of 1983, combines the need for jobs with the need to repair local facilities.

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It is also the first step by the Committee in improving the Nation's private productivity by making the public sector more productive. The private sector, which generates the wealth of this country, cannot expand, provide jobs, products and tax revenues, without public facilities to move its goods and provide its utilities and services. Private enterprise needs the highways, roads, bridges and streets, the ports and waterways, the airports, the water and wastewater treatment systems, which are the public responsibility.

H.R. 2544 begins the restoration of public facilities, while creating immediate, useful jobs in the private sector.

H.R. 2544 was introduced on April 13, 1983, and was referred to the Committee on Public Works and Transportation. The Subcommittee on Economic Development held four days of hearings on this and other bills referred to it April 20, 21, 26 and 27.

Subcommittee mark-up was held May 5. The full Public Works and Transportation Committee held mark-up on May 12, and the bill was ordered reported by a recorded vote of 31 to 19.

The bill reported from full Committee differs substantially from the version as introduced and as reported from Subcommittee.

The purposes remain the same: to create immediate, useful jobs on labor-intensive projects repairing, renovating and improving public facilities.

The original bill would have provided $4 billion in 100% grants to States, municipalities, urban counties and Indian tribes, under a program administered by the Department of Commerce. The funds were targeted to areas of highest unemployment, on a formula based on numbers of unemployed and the severity of unemployment.

The Secretary of Commerce would have administered the program for urban counties and municipalities with over 25,000 population. Governors would have administered the program for non-urban areas of under 25,000. States would not have received funds for their own use.

The bill was intended to be fast-track, to get the funds out as rapidly as possible. The Secretary was required to promulgate regulations within 30 days, and process applications within 30 days. Applicants were required to submit their applications within 30 days of promulgation. Construction was to begin within 60 days of project approval, and to be completed within 365 days.

In Subcommittee mark-up a substitute was offered by the Minority Members of the Committee, which would have established a jobs program under the Office of Revenue Sharing in the Department of Treasury. That substitute was subsequently withdrawn with the understanding that it would be reoffered at full Committee mark-up.

The Majority Members of the Committee agreed that using the revenue sharing delivery mechanism would significantly speed implementation of the program. The Majority remained committed, however, to a targeted bill rather than to one which relied on the Revenue Sharing formula which does not consider unemployment. Most Members of the Committee insisted on the use of an unemployment-based formula at the sub-State level to insure that funds reached communities with significant levels of unemployment.

The Majority also believed that the $2.3 billion contained in the substitute was inadequate, and that a local match for all communities would put an undue burden on already financially-stricken communities.

The resulting Majority substitute, offered and adopted at full Committee, incorporates the revenue sharing delivery mechanism, and authorizes $3.2 billion instead of the $4 billion contained in the original bill. It provides that after a set-aside for Puerto Rico and the Territories, ¼ of the amount appropriated be apportioned on the straight General Revenue Sharing formula to assure that communities which do not suffer from highest unemployment would receive some funding for their jobless citizens; but requires that ¾ of the amount appropriated, after the set-aside, be allocated by an unemployment-based formula at the sub-State level. A local match of funds is required only for communities with an unemployment rate below the State average. Localities are encouraged to hire long-term unemployed and create part-time employment for the young jobless.

SUMMARY OF H.R. 2544, AS REPORTED, THE EMERGENCY PUBLIC WORKS EMPLOYMENT ACT OF 1983

The Emergency Public Works Employment Act of 1983 authorizes $3.2 billion for grants to local governments to create immediate public works jobs through the repair and improvement of essential public facilities. It provides grants to high unemployment areas for the construction, renovation and repair of local public works activities, such as water and sewer lines, roads, bridges, and industrial sites.

The funds will be channeled through the Office of Revenue Sharing, but will be targeted to areas of highest unemployment. After a set-aside of 1½ percent of funds appropriated for Puerto Rico and one-half of 1 percent of the Territories, the remaining funds are allocated in the following manner: Three-fourths of the remaining funds or approximately $2.4 billion will be allocated among States and within States by an unemployment-weighted formula. This formula requires that 65 percent of the funds be apportioned according to the number of unemployed persons in each State as it compares with the total number of unemployed nationwide; 35 percent of these funds will be allocated to States having an unemployment rate in excess of 8 percent according to severity. This portion is weighted by population to insure an equitable distribution according to the per capita unemployment.

This targeted formula is applied again within a State to see that funds reach the highest unemployment county areas. Once funds have been allocated to the highest unemployment counties, they are distributed to the smaller cities, towns and communities in the same proportion as a community receives under the general revenue sharing formula.

One-quarter of the appropriated funds remaining after the set-aside ($800 million) will be distributed to communities according to the general revenue sharing formula. The general revenue sharing formula for allocating funds to local communities considers tax efforts, State income, tax collectors, per capita income (weighted in-

versely), population, and urbanized population. Communities receiving funds under the general revenue sharing formula must use these funds for infrastructure repair and improvement projects.

Communities located in counties having an unemployment rate below the State average must match this Federal payment. The most distressed communities receive 100 percent funds. The bill prohibits funding to communities whose per capita income exceeds 125 percent of the State average, as does the General Revenue Sharing Program. To avoid the miniscule payments presently received by some communities under General Revenue Sharing, a $50,000 minimum payment has been established. This is to make certain there is sufficient funds for a *public works* project and any funds to be reallocated because of this provision, must be spent in the same immediate area.

School district projects are eligible for funding under this program. Recipients of these funds must give assurances that they will hire the long-term unemployed and provide part-time jobs for young people between 16–19. Work is to be contracted out by competitive bidding and assurances must be received that minority businesses will participate in this program.

Funds may not be used to acquire real estate, to pay for the maintenance cost of facilities constructed with Federal funds, or for the construction of any recreational or cultural facilities. Labor-intensive projects, such as the repair and renovation of public facilities, are encouraged. New construction is permitted if the project can be completed in a year.

EXPLANATION

Eligible activities

Eligible activities include construction (including demolition and other site preparation activity), renovation, repair and improvement of local public works owned or operated by a unit of general local government, a territory, or any of their agencies or instrumentalities. The Committee intends these projects to be small and labor-intensive, concentrating on repair and rehabilitation of local facilities such as water and sewer lines, roads, streets and local bridges, and municipal and school buildings. No funds may be used to acquire real property, or for construction of recreational or cultural facilities, although renovation, repair and improvement of these facilities are permitted.

New construction is permitted if the project can be completed within a year. Normal operating and maintenance costs of a public facility are not eligible activities. The committee considers maintenance to be routine activities necessary to keep a facility operating at its design specifications. If a State or local law defines maintenance, that definition would apply to projects funded under this bill.

Major repairs, improvements, rehabilitation and renovation that are needed to modernize or upgrade an existing public facility are considered eligible projects. However, since this program is intended to address, in a modest way, the deteriorating condition of public facilities, some flexibility is required in making the distinc-

tion between maintenance and repair and improvement of facilities.

Eligible recipients

Eligible recipients are those currently receiving revenue sharing, including units of general local government such as counties, cities, towns and townships or their local equivalents and Indian Tribes, plus Puerto Rico and the Territories.

Funding mechanism: Revenue sharing for infrastructure repair

The Office of Revenue Sharing, under the Department of Treasury, will administer the program. The rules and procedures for allocating funds to local units of government under the Revenue Sharing program will apply, unless explicitly addressed in this bill or in conflict with the purposes of the bill.

This bill provides $3.2 billion for grants to local governments for the renovation and repair of public facilities. Of these funds, 1½ percent is set aside for Puerto Rico and one-half of 1 percent is set aside for the Territories to be allocated according to population. Of the remaining funds three-fourths, or approximately $2.4 billion, is to be allocated by an unemployment-based formula to the areas of highest unemployment, and the remaining $800 million is to be distributed by the Revenue Sharing Formula. The application of these two formulas determines the exact amount a locality receives under this program. Based on this computation, checks will be mailed to local communities in a manner similar to that under which they receive general sharing monies. All funds must be used for repair, renovation and improvement of public facilities. Recipients are encouraged to use these funds in a way that combines greatest infrastructure needs and maximum job creation. Counties, cities, towns, townships or the local equivalent of these jurisdictions will be allocated funds relative to the share of unemployed persons. However, the allocation must be sufficient to accomplish a public works project. Indian Tribes receive a direct allocation, as they do under the revenue sharing program.

The Committee intends whenever possible that the distribution procedure be consistent with and complementary to that used under the Revenue Sharing program. For example, recipient govenments, as determined by the allocation formula, will receive a letter from the Office of Revenue Sharing. This letter will describe the allocation process, advise recipients of the conditions or assurances required to expend these funds, and notify the government of the amount of funds they are eligible to receive under this program. Local governments must furnish a satisfactory assurance statement that they will comply with all provisions of the bill. Prompt initiation of projects and speedy job creation are paramount goals of this legislation. Therefore, local communities may use the letter from the Office of Revenue Sharing as a letter of credit or other financing tool permitted by local law to begin the construction or renovation of a project.

The allocation of funds

To determine the amount a unit of local government will receive, it is necessary to apply the unemployment formula and the Reve-

nue Sharing Formula. The amount the local government is apportioned under each of these formulas is added together to determine its allocation.

The unemployment formula is applied among States and within States to determine an area's share of ¾ of the total funds appropriated, less the set-aside for Puerto Rico and the Territories, or approximately $2.4 billion. This formula requires that 65% of the funds be apportioned according to the number of unemployed persons in the State as it compares to the total number of unemployed nationwide, and that 35% of these funds be distributed to States with an unemployment rate above 8%. Once the State allocation is determined, the formula is applied again within a State, to determine allocations to a county or county area. Within States, the 35 percent portion is allocated to areas with an unemployment rate above the State average. At both the State and substate levels the 35% funds are allocated proportionally by the unemployment rate and weighted by populations among the eligible units of government.

Allocations based on the 65/35 formula will be made to the county or county areas within States. Using available Federal unemployment data, funds are targeted areas with the greatest distress. Then the Revenue Sharing Formula is applied within the county or county area to apportion funds to local governments according to their fiscal responsibility. Federal unemployment data are not universally available below the county level, which precludes the application of the unemployment formula below the county level. In making allocations within States, the term "county area" is intended to cover situations where no county government exists, such as Connecticut and Rhode Island. The Committee intends that units of local government and related definitions have the same meaning as used traditionally under the Revenue Sharing program. As a general rule, if a community receives funds under the Sharing program, they will receive funds under this program. However, this bill does include several limitations on funding which distinguish it from the distribution of funds under General Revenue Sharing.

In addition to the allocation of funds under the unemployment formula, $800 million will be apportioned to local communities according to the Revenue Sharing Formula. The Revenue Sharing Formula considers tax effort, State income tax collections, per capita income (weighted inversely), population and urbanized population. Whatever communities receive under the general Revenue Sharing portion of the formula would then be added to the amount allocated under the 65/35 unemployment formula.

A table, prepared by the Office of Revenue Sharing, Department of the Treasury, giving an estimate of what each State would receive if the full $3.2 billion is appropriated follows:

TABLE I

SIMULATED INTERSTATE ALLOCATION UNDER H.R. 2544

	Amounts (Millions)						Unemployed Mar 82 to Feb 83	
	One-fourth By Revenue Sharing	65% of Three-fourths By Number Unemployed	35% of Three-fourths By Rate Weighted by Population	Total of Columns (1), (2), and (3)	Percentage Distribution	Index of Per Capita Amounts (U.S.=100.)	Number	Rate
United States	784.0	1,528.8	823.2	3,136.0	100.0	100.0	11,024,058.0	
Alabama	13.6	35.8	24.5	73.9	2.4	138.3	257,851.0	14.9
Alaska	6.3	3.0	1.9	11.2	0.4	188.5	21,401.0	10.2
Arizona	9.5	19.2	12.4	41.1	1.3	106.0	138,446.0	10.4
Arkansas	7.9	13.8	9.3	30.9	1.0	99.7	99,259.0	9.7
California	87.7	175.1	106.4	369.2	11.8	110.2	1,262,525.0	10.3
Colorado	8.9	17.9	10.3	37.1	1.2	90.0	129,171.0	8.1
Connecticut	9.3	15.7	0.0	25.0	0.8	58.6	113,509.0	7.1
Delaware	2.3	3.3	0.0	5.6	0.2	68.5	23,661.0	7.9
Dist. of Col.	3.2	4.6	2.8	10.6	0.3	123.8	33,376.0	10.6
Florida	28.2	56.8	37.4	122.4	3.9	86.7	409,433.0	8.6
Georgia	19.1	28.8	0.0	47.9	1.5	62.7	207,997.0	7.8
Hawaii	3.9	4.2	0.0	8.1	0.3	59.9	30,315.0	6.6
Idaho	3.2	6.1	4.0	13.4	0.4	102.3	44,342.0	10.0
Illinois	36.9	92.4	56.9	186.2	5.9	120.1	666,433.0	11.9
Indiana	14.7	43.3	27.7	85.6	2.7	115.6	312,483.0	12.1
Iowa	9.3	17.3	10.7	37.3	1.2	94.9	124,821.0	8.8
Kansas	6.7	10.9	0.0	17.6	0.6	54.0	78,448.0	6.6
Kentucky	13.1	25.2	16.5	54.9	1.7	110.5	181,798.0	10.8
Louisiana	16.0	27.7	19.7	63.4	2.0	107.3	199,653.0	10.8
Maine	4.8	6.2	4.1	15.2	0.5	99.0	44,903.0	8.7
Maryland	15.1	25.1	15.0	55.2	1.8	95.5	181,258.0	8.4
Massachusetts	23.5	33.2	0.0	56.7	1.8	72.5	239,458.0	8.0
Michigan	30.1	92.4	59.4	181.9	5.8	147.4	666,275.0	15.6
Minnesota	14.5	24.7	14.2	53.4	1.7	95.4	178,391.0	8.1
Mississippi	10.9	16.6	12.0	39.5	1.3	114.4	119,560.0	11.3
Missouri	13.5	30.2	19.6	63.4	2.0	94.5	218,011.0	9.5
Montana	3.2	4.8	2.9	11.0	0.4	101.2	34,759.0	8.8
Nebraska	4.9	7.0	0.0	11.9	0.4	55.3	50,418.0	6.4
Nevada	2.4	7.1	3.9	13.4	0.4	112.5	51,509.0	10.6
New Hampshire	2.4	5.2	0.0	7.6	0.2	58.8	37,210.0	7.6
New Jersey	24.8	44.7	27.7	97.1	3.1	96.4	322,417.0	8.9
New Mexico	6.3	7.8	5.4	19.6	0.6	106.2	56,595.0	9.5
New York	79.7	96.5	64.2	240.4	7.7	100.5	695,508.0	8.7
North Carolina	20.7	37.8	23.1	81.6	2.6	100.1	272,217.0	9.2
North Dakota	2.4	2.7	0.0	5.1	0.2	55.9	19,363.0	6.1
Ohio	29.7	91.6	58.2	179.5	5.7	122.8	660,792.0	12.9
Oklahoma	10.4	12.7	0.0	23.0	0.7	53.6	91,520.0	6.3
Oregon	9.3	21.3	12.8	43.4	1.4	121.1	153,402.0	11.6
Pennsylvania	38.0	86.8	56.5	181.3	5.8	112.8	625,633.0	11.4
Rhode Island	3.4	7.0	4.2	14.6	0.5	112.6	50,826.0	10.5
South Carolina	11.9	22.8	14.7	49.4	1.6	114.0	164,576.0	11.0
South Dakota	2.7	2.6	0.0	5.3	0.2	56.8	18,794.0	5.7
Tennessee	14.7	35.7	23.5	73.9	2.4	117.3	257,135.0	12.1
Texas	42.7	75.4	0.0	118.1	3.8	57.1	543,850.0	7.3
Utah	5.9	7.5	5.3	18.7	0.6	98.9	54,193.0	8.1
Vermont	2.2	2.6	0.0	4.7	0.2	68.0	18,532.0	7.0
Virginia	16.9	29.1	0.0	46.0	1.5	61.8	209,505.0	7.9
Washington	11.5	34.3	21.6	67.4	2.1	117.2	247,215.0	12.2
West Virginia	7.1	16.2	12.3	35.5	1.1	134.5	116,489.0	15.1
Wisconsin	16.7	37.7	22.1	76.5	2.4	118.5	271,647.0	11.1
Wyoming	2.0	2.4	0.0	4.4	0.1	64.5	17,205.0	6.9

Territories:		Population
Virgin Islands	4.2	99,400
Guam	4.7	104,900
American Samoa	1.4	31,000
Trust Territory of the Pacific Islands	5.0	118,300
Northern Mariana Islands	0.7	17,300
Subtotal for Territories	16.0	377,900
Puerto Rico	48.0	3,251,000

Note: (1) Territories and the Commonwealth of Puerto Rico are set-aside 2 percent of the total of $3,200 millio
Puerto Rico is allocated 1.5 percent and the territories receive 0.5 percent of the total which is
allocated among them based on their 1981 populations.
(2) Populations of States are 1982 provisional estimates.

Office of State and Local Finance
U.S. Department of the Treasury
May 13, 1983

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It should be considered only a similation of what the actual amounts would be when funds are allocated. If data, the amount appropriated or other conditions change, the amounts each State receives will vary accordingly.

A breakdown within States is not available at this time.

Formula data

Unemployment statistics must be the average unemployment rate for the most recent twelve-month period for which data are available. These statistics are determined by the Bureau of Labor Statistics. The most recent population estimates by the U.S. Census Bureau will be used to determine relative population, and the county area population data will be that used in the revenue sharing entitlement period ending September 30, 1983.

Limitations on allocations

To avoid the miniscule payments some communities receive under the General Revenue Sharing Formula, a $50,000 minimum allocation has been established. This minimum is determined after adding together funds appc tioned under the unemployment allocations and the Revenue Sharing allocation. This minimum amount has been established to insure that there are sufficient funds to do a public works project, since all monies must be used for infrastructure repairs and improvement. Any funds to be reallocated because of this provision must be spent in the immediate area.

Because it is the Committee's intent that funds be spent whenever possible in the immediate area to which they would have been allocated except for the $50,000 limit, this minimum does not apply to a county or county area, if that area would be denied funds because of the minimum.

This bill prohibits funding to communities with a per capita income (as determined by the Bureau of the Census, for general statistical purposes) in excess of 125% of the State average. This limitation is intended to see that the most wealthy communities do not receive any funds under this program. The State average is used to take into account income differences among States. The exclusion has the effect of limiting funds to areas having a significant unemployment problem or other related distress factors considered in the Revenue Sharing Formula.

Assurances

Under Revenue Sharing, recipients are required to provide certain assurances in order to receive funds. In addition to those required by the State and Local Fiscal Assistance Act of 1972, recipients of assistance under this bill would be required to provide certain assurances related to this specific program. The assurances are intended to apply to any payment or expenditure made in whole or in part under this program.

Recipients of assistance whose unemployment rates are too low to qualify under the unemployment-based formula, i.e. communities which have an unemployment rate below the State average, must match these Federal dollars.

(1) Recipients must assure that they will invest in eligible projects;

(2) Projects must be completed within 12 months of receipt of their payment;

(3) Recipients may not substitute these funds for projects they would have done on their own without this program. Therefore, the bill requires that only those projects may be funded which would not be otherwise carried out within 18 months of enactment;

(4) To assure that assistance reaches the currently unemployed, the bill requires that to the maximum extent feasible, hiring include the unemployed, especially those unemployed for 16 weeks or longer;

(5) Projects must be carried out by private contractors under competitive bidding procedures. The Committee anticipates that many projects are ready to go, with engineering and architectural work completed. However, in the event that this work has not yet been done, the Committee intends that the normal Federal procurement practices which apply to licensed registered design professionals be followed.

(6) No local government employee may be displaced as a result of funding under this bill. The Committee recognizes that in many jurisdictions public employees at times perform work similar to that authorized by this bill. While public employees may not participate in such projects, they may not be terminated as a result of this legislation.

(7) To assure that the bill benefits young people, among whom unemployment is highest, the bill requires that to the maximum extent practicable, at least 10% of the funds be used for part-time employment of unemployed people between ages 16 and 19;

(8) Testimony was received during the hearings on the urgent need to upgrade the physical condition of the Nation's schools; accordingly, schools are to receive the same consideration as other branches of the recipient governments;

(9) To assure participation by minority business enterprises the bill provides that, to the maximum extent practicable, minority business enterprises must be utilized in the same proportion as the percentage of minority population within or within commuting distance of the jurisdiction of the recipient. To the maximum extent practicable, that percentage may not be less than 2%.

(10) A Buy America provision is included, providing that to the maximum extent practicable, steel, cement and other manufactured products used on projects be produced in the United States. By this provision the Committee intends that American products be used unless such use is inconsistent with the public interest, unless such materials and products are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or if inclusion of domestic material will increase the cost of the overall project contract by more than 25%;

(11) The bill requires assurance that projects are accessible to the handicapped and the elderly;

(12) To prevent discrimination, the bill requires the same anti-discrimination assurances required under the Revenue Sharing program.

(13) As a general rule payment of overtime is prohibited except in bona fide emergencies. The intent is to create as many jobs as

possible and the payment of overtime wages would diminish this goal.

The Revenue Sharing program already contains a Davis-Bacon provision, as well as a number of other provisions which have the same application under this bill as they do under the revenue sharing program.

Accountability and audit provisions

Section 6 of this bill is intended to require both a financial and a compliance audit of expenditures made under this program. This audit applies to any payment or expenditure made in whole or in part under this program.

The audit procedures as described in this bill should, whenever possible, complement the audit procedures used under the revenue sharing program. This additional requirement is included to clarify that local governments should establish a separate account for these funds and any match of these funds, which is required for communities when the county unemployment rate is below the State's average unemployment rate. This is necessary to ensure accountability and compliance with the special conditions and requirements included as a part of this public works/job-creating program.

To ensure compliance and financial accountability under this program, the Secretary is authorized to hold back 10 percent of the funds of an eligible unit of government until a satisfactory audit is completed. It is not the Committee's intent that every project be audited as completed, but the Committee does anticipate an audit as quickly as possible after funds received under this program have been expended.

The Secretary of the Treasury may require the local community to provide an independent audit in accordance with generally accepted auditing standards similar to the conditions followed under the revenue sharing program. In most cases, this may be carried out under the normal auditing procedures of local government. Should the revenue sharing program be amended to require an annual audit, it may be possible to perform the audit of this program as part of the revenue sharing audit procedures.

As soon as the Secretary receives a satisfactory audit that the compliance and financial requirements this Act have been met, he must release any funds that have been held back from the eligible recipient. The Secretary may issue guidelines or regulations that he deems necessary to prescribe when the compliance and financial requirements have been met.

Expeditious implementation

The purpose of this section is to emphasize the importance of timely implementation and completion of projects undertaken with funds provided through this Act. However, this section may not be construed to circumvent the assurances required under Sec. 5 of the bill.

The Committee clearly intends that projects be implemented as expeditiously as possible, and does not intend that language in the bill give rise to any actions to delay that implementation. However,

expedition should not be achieved at the expense of the required assurances.

SECTION-BY-SECTION ANALYSIS OF H.R. 2544

A BILL To provide an emergency public works jobs program by authorizing the construction of short-term infrastructure repair projects, and for other purposes

Cites the Act as the "Emergency Public Works Employment Act of 1983".

Section 2—Statement of Findings and Purposes.—States the present condition of the nations' public facilities threatens national economic recovery. The purposes of the Act are to provide jobs in areas of high unemployment with short-term projects to repair and improve public facilities and to assist local governments in making capital improvements to public facilities.

Section 3—Eligible Activities.—Payments are made to units of local government for the construction, renovation, repair and improvement of their local public facilities.

Payments may not be used for the acquisition of real property, the construction of any recreational or cultural facility or for maintenance costs in connection with any projects.

Section 4—Apportionment of Funds and Payments.—(a) Provides a set-aside of 1½ percent of funds appropriated to be paid to Puerto Rico and a set-aside of one-half of 1 percent of funds appropriated to the territories to be allocated to each territory based on the ratio of the population of each territory bears to the population of all the territories.

(b)(1) Payments are to be made to units of general local government. Each local government is to be paid the sum of the amount it would receive out of the allocation formula of Revenue Sharing applied to one-fourth of the funds appropriated and the allocation formula of 65/35 percent unemployment factors targetted to areas of unemployment applied to three-fourths of the funds appropriated. The sum of the two allocations is then subject to the following conditions:

If the sum of the amount allocated to the local government is less than $50,000 or if the per capita income of the local government exceeds by 125 percent of the State average per capita income, then no amount is paid to such government but such amount will be added to the county government in which the unit of local government is located. However, if this occurs in a county area which has a population greater than 500,000 and contains no area not located within a local government, then such amount will be reapportioned among the units of local governments using the same ratio each local government received from Revenue Sharing for fiscal year 1983.

(2) The formula for one-fourth the sums appropriated after set-aside for Puerto Rico and the territories is as follows. Each unit of local government is to receive an amount which bears the same ratio to the total amount of this fund as the amount allocated to such unit bears to the amount allocated to all units of local government under Revenue Sharing for fiscal year 1983.

(3) The formula for three-fourths the sums appropriated after set-aside for Puerto Rico and the territories is as follows. 65 percent of

the funds are to be allocated among the States on the basis of the ratio that the number of unemployed in each State bears to the total number of unemployed in all the States and 35 percent of the funds are to be allocated among the States with an average unemployment for the most recent 12-month period in excess of 8 percent on the basis of the relative severity of unemployment, weighted by population, in each of such State.

The above formula is again applied to each State allocation to determine the allocation among county areas within each State. Therefore, of the amount allocated to each State, 65 percent is to be allocated among county areas within each State on the basis of the ratio that the number of unemployed persons in each county area bears to the total number of unemployed persons in all county areas in the State and 35 percent is to be allocated among those county areas within the State with an average unemployment rate for the most recent 12-month period in excess of the average unemployment rate for the State on the basis of the relative severity of unemployment, weighted by population, in each county area.

Then each local government located within a county area to which an allocation is made is to be apportioned an amount which bears the same ratio to the amount allocated to the county area under the formula above as the amount allocated to such unit under Revenue Sharing in fiscal year 1983 bears to the amount allocated to all such units located in the county area.

Section 5—Assurances.—In order to qualify for a payment, any local government, except an Indian tribe or Alaskan native village, located in a county area with an unemployment rate less than the unemployment rate of the State, must make an assurance that it will match the Federal payment it receives in funds to be used for projects authorized by this Act.

Every local government, in order to receive a payment under this Act, must in addition to the assurances required by General Revenue Sharing under Section 6704(a) of that Act except the provision requiring the local government to use its payment within a reasonable period, make the following assurances:

(1) The payment will be used only for projects authorized by the Act.

(2) Any project for which the Federal payment is used will be completed within 12 months of receipt of its payment.

(3) The payment will not be used on any projects which have already been committed to be carried out within 18 months from the enactment of this Act.

(4) To the maximum extent feasible, unemployed individuals, especially those who have been unemployed 16 weeks or more, should be employed on projects.

(5) Projects cannot be performed by governmental bodies and must be performed by contract awarded by competitive bid.

(6) Local government employees cannot be displaced or laid off as a result of the use of the Federal payment.

(7) To the maximum extent practicable, at least 10 percent of payment must be used to employ on projects, youths of ages 16 to 19.

(8) Local government must give equal consideration to projects of school districts.

(9) To the maximum extent practicable, minority business enterprises should share in projects to extent that it reflects the percentage of minorities residing in the area of the local government but to the maximum extent practicable, the share must not be less than 2 percent.

(10) To the maximum extent practicable, steel, cement, and manufactured products used on projects must be produced in the United States.

(11) Projects must be constructed in accordance with the standards for accessibility to the handicapped.

(12) No discrimination from participation in or the benefits of any project because of race, color, sex, or national origin.

(13) Except only in cases of emergency, no overtime pay will be paid on projects funded by payment.

Section 6—Records and Audit.—(a) After completion of a project, the Secretary must conduct an audit of the payment.

(b) Each recipient of a payment must keep records as the Secretary shall prescribe.

(c) Gives the Secretary, the Comptroller General of the United States, or any of their authorized representatives access to all books, documents and papers of recipient that are pertinent to the assistance received under this Act.

(d) Requires the Secretary to withhold 10 percent of payment to local government until completion of audit. If upon completion of audit, the Secretary finds a violation of any provision of the Act, the Secretary may deny payment of part or all of the funds withheld pending completion of such audit.

Section 7—Definitions.—Defines the terms Alaskan native village, county, Indian tribe, unit of general local government, population, Secretary, State, and territory.

Section 8—Unemployment Data.—For the purposes of this Act, unemployment data shall be determined by the Bureau of Labor Statistics, Department of Labor.

Section 9—Authorization of Appropriations.—Up to $3,200,000,000 is authorized to carry out this Act.

Section 10—Administration.—Payments are made in the same manner and by the same personnel as used for payments made under Revenue Sharing. Provisions of the Revenue Sharing Act apply to payments under this Act except certain provisions relating to allocation formulas of Revenue Sharing, public hearings, audit and report requirements, and other provisions that are inconsistent with and should not apply to this Act.

Section 11—Expeditious Implementation.—None of the provisions of this Act should be construed so as to prevent, impede, or delay projects authorized by this Act.

COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, no separate hearings were held on the subject matter of this legislation by the Subcommittee on Investigations and Oversight. However, the Subcommittee on Eco-

nomic Development held hearings which resulted in this reported bill.

(2) With reference to clause (2)(l)(3)(B) of rule XI of the Rules of the House of Representatives requiring the report of any committee shall include the statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974, if the measure provides new budget authority or new or increased tax expenditures. With respect to section 308(a), the bill as reported by the committee does not provide new budget authority or new or increased tax expenditures.

(3) With reference to clause (2)(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received an estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget and Impoundment Control Act of 1974. The report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 17, 1983.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2544, the Emergency Public Works Employment Act of 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2544.

2. Bill title: The Emergency Public Works Employment Act of 1983.

3. Bill status: As amended and ordered reported by the House Committee on Public Works and Transportation, May 12, 1983.

4. Bill purpose: The bill would authorize the appropriation of $3.2 billion in fiscal year 1983 for the purpose of making direct payments to recognized territories and units of general local government for constructing, renovating, repairing, or improving local public works facilities. Provisions of the bill encourage labor-intensive projects and projects that can be initiated and completed quickly.

5. Estimated cost to the Federal Government:

[By fiscal years, in billions of dollars]

	1983	1984	1985	1986	1987
Estimated authorization level	3.2				
Estimated outlays		2.9	0.3		

The costs of this bill fall within budget function 450.

Basis of estimate: For the purpose of this estimate, it has been assumed that this bill and the necessary appropriations would be enacted by July 1, 1983. The funds authorized are expected to be disbursed in fiscal years 1984 and 1985. The actual distribution of outlays from this bill between fiscal years 1984 and 1985 will be determined by the time necessary to develop the local government allocations, notify those governments, and receive from them the compliance assurances required by the bill. It is also assumed that local governments will participate fully and provide matching payments as necessary. Since 10 percent of all allocations are to be withheld pending final project completion, $320 million is assumed to be disbursed in the year following the initial payment. Any expenses associated with the audit required by the bill are assumed to be deductible from funds authorized to be appropriated by the bill.

6. Estimated cost to State and local governments: The bill provides for the apportionment of funds to units of general local government in a manner similar to that used to distribute general revenue sharing payments to state and local governments but that is weighted toward allocating relatively more funds to states and units of local government that are experiencing unemployment greater than the average for similar government units.

Any allocation that would result in a payment of less that $50,000 to a local government unit or would go to an area having per capital average income greater than 125 percent of the State average would be reapportioned to the county government in which the local government is located.

Any unit of government, otherwise eligible for an allocation, that has an average unemployment rate for the most recent twelve-month period that is less than the average rate for the state in which the government is located must contribute an amount equal to the federal allocation in order to receive grant funds. The number of units of local government that might fall under this provision and the allocation they might receive under this bill cannot be determined until the necessary unemployment data are developed subsequent to enactment of the bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Linwood T. Lloyd.

10. Estimate approved by: Robert A. Sunshine (for James L. Blum, Assistant Director for Budget Analysis).

(4) With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the following information is provided:

The effect of carrying out H.R. 2544, as reported, should be minimal with respect to prices and costs. The funds under this program are directed primarily to areas of high unemployment. The primary purpose of this legislation is to relieve the excessive high levels of unemployment. The unemployment in the construction industry far exceeds the general level of unemployment. Accordingly,

the enactment of H.R. 2544, as reported, will have little inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

In accordance with rule XIII(7) of the Rules of the House of Representatives, the following information is furnished on the cost to the United States in carrying out H.R. 2544, as reported in fiscal year 1983, and in each of the five following fiscal years.

The estimate is based on the amount of authorizations contained in H.R. 2544.

[By fiscal years, in billions of dollars]

1983	0
1984	2.9
1985	.3
1986	0
1987	0
1988	0

COMMITTEE RECOMMENDATIONS

The Committee in compliance with rule XI(2)(1)(2)(A), the majority of the Committee having actually been present, reports favorably the bill H.R. 2544, as amended, and recommends its enactment as reported.

VOTE

In compliance with rule XI clause 2(l)(2)(B), the Committee, by a roll call vote of 31 yeas to 19 nays, agreed to order the bill reported.

ADDITIONAL VIEWS OF HON. BRIAN DONNELLY

Mr. Chairman, I salute the efforts of the Committee and the Subcommittee on Economic Development in formulating a "jobs bill" which will be distributed in a fair and equitable manner. However, I reluctantly opposed this measure for I do not believe that we can set a "severe unemployment rate" at 8 percent.

Current figures show that 12 states have unemployment in excess of 6 percent but less than 8 percent. The effects of the ongoing recession, along with the personal trauma of unemployment are just as great for these individuals.

H.R. 2544 is a step in the right direction in allowing states and localities the necessary discretion in choosing the work programs most suitable to their needs. I also share the Committee's views that the funds should be fast tracked through the Revenue Sharing process. However, the formula which targets funds is unfair. The formula calls for 75 percent of the funds, or $2.4 billion, to be awarded to the states. Of these funds 35 percent are to go to states with unemployment greater than 8 percent; $850 million will not be accessible to many long-term unemployed simply because they live in the wrong state.

I also feel that if we are to target such funds, other criteria should be taken into account. Sub-median income and significant short term increases in unemployment, provisions which are included in H.R. 10, the National Development Act which the Committee reported and I cosponsored, should be considered in this targeting. I believe that this provision can be amended without severely affecting the Committee's ability to target funds.

BRIAN DONNELLY.

SUPPLEMENTAL VIEWS OF HON. ED TOWNS

The Emergency Public Works Employment Act of 1983 will enable local governments to create new jobs through the repair, improvement and construction of "essential public facilities". The phrase "essential public facilities" is not really outlined in the legislative language of H.R. 2544. In fact, in the statement of purpose the act specifically states that one of its purposes as assisting "units of general local government in making capital improvements to public facilities that support and promote the economic and tax base of the nation's units of local government". Unfortunately, the bill also prohibits funds under this bill from being used in the construction of recreational or cultural facilities in section 3 of H.R. 2544. I continue to believe that this restriction unnecessarily limits local governments' ability to build needed facilities, such as libraries, museums and recreational facilities which would "promote the economic and tax base" of local governments.

The Committee failed to recognize the importance of public works monies in the construction of such facilities to many communities. For example, the Schomburg Center for Research in Black Culture was largely built with funds from the 1976 Local Public Works Acts. The establishment of this center saved America's most important collection of black art, history and literature from deterioration due to the lack of adequate storage facilities. Similarly, the Seaport Museum and the new addition to the Batavia School Board's library could not have been completed without public works' funds.

Finally, I believe that H.R. 2544's disperal of 25 percent of the bill's authorized funds through the general revenue sharing formula is an additional argument for eliminating this restricting on the construction of recreational and cultural facilities. The House Government Operations Committee has just reported out a reauthorization bill, H.R. 1930, for general revenue sharing. The House Government Operations' Subcommittee on Intergovernmental Relations and Human Resources repeatedly heard testimony from witnesses who endorsed revenue sharing because of its "flexibility" in enabling local officials to use revenue sharing to meet their citizens most pressing needs. The Subcommittee Chairman Ted Weiss (D–NY) endorsed this concept in his "Dear Colleague" letter of March 7th. ". . . revenue sharing retains its original importance because eligible units of government can count on receiving these funds as entitlements and they can use them with maximum economy and efficiency to meet local needs and local priorities".

The use of the revenue sharing approach, for the dispersal of these public works funds, should also encompass the traditional principles of revenue sharing which do not restrict the use of revenue sharing monies by local units of governments. I am hopeful that the Committee will reconsider its position on this particular aspect of H.R. 2544 during floor consideration of the bill.

ED TOWNS.

MINORITY VIEWS OF REPRESENTATIVES SNYDER, HAMMERSCHMIDT, SHUSTER, STANGELAND, GINGRICH, CLINGER, MOLINARI, SHAW, McEWEN, WOLF, PETRI, DAUB, MARTIN, WEBER, SMITH, SUNDQUIST, JOHNSON, AND PACKARD ON H.R. 2544

We support the creation of meaningful new jobs, but we are opposed to the enactment of H.R. 2544 in its present form.

The unemployment problem that we face today is comprised of two components: cyclical unemployment, attributable to a periodic downward turn in economic activity; and structural unemployment joblessness that remains even after cyclical recovery. Both components have specific characteristics which call for different policy strategies. In either case, however, sound economic recovery is the best tool to combat high levels of unemployment.

We reaffirm our belief that a healthy economy is the best creator of meaningful, new jobs. It is important that we strive to restore a stable, noninflationary economic climate both at home and throughout the world.

The House is currently in the process of considering a broad spectrum of alternatives for inclusion in a second phase of strategies to improve employment conditions in our Nation. H.R. 2544, the Emergency Public Works Employment Act of 1983, is one of the alternatives being considered, and is intended to improve employment opportunities and deal expeditiously with the immediate economic problems through a short-term repair, renovation and construction program.

Unfortunately, H.R. 2544, as reported by the Committee, is replete with unworkable, unwise, and unfair provisions. It is not the product of careful Congressional deliberation. Instead, it is a flawed proposal which was rushed through the Committee on a partisan basis with little or no notice. Very few Members, if any, knew what they were voting on since the Majority leadership produced a new substitute, including an entirely new distribution formula, at a few minutes before midnight on the day before the Full Committee markup.

If the Congress decides to consider Phase II jobs legislation, we believe the substitute offered by the Minority at the Full Committee markup is a far superior proposal and is much more deserving of Congressional approval. The Minority substitute had less impact on new spending authority, a simpler delivery system, and a far greater impact on job generation. It was available to all Committee members a week before Full Committee markup.

The following discussion is divided into three parts. Part I, entitled "Background", discusses H.R. 2544, as originally introduced, and the problems associated with it. Part II, entitled "Minority Alternative", describes the substitute offered by the Minority at Full Committee markup and the advantages that it has over the approach in H.R. 2544, as introduced. And Part III, entitled "Eleventh-Hour Majority Response", sets forth the significant problems that we have with the Majority substitute and the reasons why we oppose H.R. 2544 in its present form.

BACKGROUND

As introduced, H.R. 2544 provided $4 billion for construction, repair, renovation and improvement of local public works.

The program established by H.R. 2544 was remarkably similar to the local public works programs of the mid-1970's. Like earlier Local Public Works legislation, H.R. 2544 would have been administered by the Secretary of Commerce, would have required project-by-project approvals, and would have provided for a 100 percent Federal share (no local match). Moreover, the formula by which funds were distributed under H.R. 2544 was virtually identical to the LPW formulas.

Although the introduced version of H.R. 2544 contained a number of improvements, it was nevertheless still subject to many of the same criticisms as the LPW programs. These criticisms are fairly well described in the following Administration paper, entitled "Talking Points on H.R. 2544, the Emergency Public Works Employment Act."

"Talking Points on H.R. 2544"

I. The "quick fix" countercyclical public works approach to job creation has already been discredited. The public works programs of the 1970's showed that they tend to:

A. Be capital intensive—few jobs are created for every dollar spent.

B. Not effective until recovery well underway—PWEDA was still spending out in 1979–80.

C. Substitute Federal funds for State and local funds—therefore creating few net new jobs.

II. Specifically, H.R. 2544 would probably have a minimal impact on the currently unemployed.

A. Would employ relatively few people—only 22% of project costs in similar 1970's LPW program went to wages—since public works projects are not labor-intensive.

B. Would not be targeted on the currently unemployed—only 14% of jobs or 2% of project costs—in similar 70's local public works (LPW) program—ended up going to persons who were previously unemployed. Remaining project funds went to administration, capital purchases, or wages for the previously employed—due to capital-intensive nature of projects, the substitution factor, and mismatch between high skill requirement of construction activity and lack of these skills among the unemployed.

C. Would tend to dump people back on the unemployment lines after a short burst instead of providing permanent employment—average job duration in 1970's LPW program was less than one month.

III. Program would create jobs spending long after it was needed—now that we are coming out of the recession.

A. $31 billion was provided for various anti-recession jobs programs in response to the 1974–75 recession.

B. $23 billion or 74% of the total was not spent until 1977 and after—when GNP was growing and unemployment dropping.

C. Few local publc works projects can be completed within one year. Less than 8% of public works projects can be completed in 9 months or less; 30% require 2 years or more.

IV. Because public works programs tend to substitute Federal funds for State and local funds, new net job creation may be minimal and costly under H.R. 2544.

A. Costs could range from $110,000 for each direct job created—assuming no substitution—to $316,000 per direct job created—assuming 65% substitution.

B. Argument can plausibly be made that no new net jobs would be created by H.R. 2544—if substitution were 100%.

V. Further, H.R. 2544 not targeted to areas of greatest need.

A. High unemployment areas are not necessarily those with highest infrastructure needs.

B. Emphasis on short-term projects could result in State and local government inefficiently altering their priorities for local public works projects to use H.R. 2544 funds.

VI. H.R. 2544 is a wasteful budget buster.

A. Adds $4 billion to Federal spending.

B. $4 billion is not small . . . especially when it can be argued that few, if any, new jobs would be created.

MINORITY ALTERNATIVE

In the face of the Majority leadership's decision to move the introduced version of H.R. 2544—a seriously flawed bill—the Republican Members on the Committee drafted a substitute. In drafting the substitute, we attempted to achieve a compromise that all of the Members would find acceptable, so that the Committee would be more united in its support of H.R. 2544 on the House Floor.

Regrettably, the substitute was defeated in Full Committee on a straight party-line vote of 32–18.

The substitute consisted of two titles.

Title I provided a total of $2.3 billion to States and local governments for construction, repair, renovation, and improvement of local public works.

Of the $2.3 billion, $770 million would have been distributed to local governments. Subject to appropriations, each local government would have been entitled to receive up to (but not to exceed) ⅙ of the amount it received under the general revenue sharing program in fiscal year 1983. In order to qualify for these funds, each local government would have had to agree to spend an equal amount of local funds or general revenue sharing funds on similar infrastructure repair or improvement projects. Thus, the $770 million in Federal funds would have had the potential of leveraging a total investment of $1.54 billion.

The remaining $1.53 million of the $2.3 billion would have been distributed among the States. Subject to appropriations, each State would have been entitled to receive ⅔ of the amount that it would have received in fiscal year 1983 under the general revenue sharing program if the full authorization for the States had been appropriated. These funds, which could be used at a 100 percent Federal share, would have been targeted to high unemployment areas. States would generally have been required to use the funds on projects in areas with an unemployment rate in excess of eight percent during the preceding twelve months.

In order to expedite delivery of the funds, minimize Federal red tape, and check the expansion of the bureaucracy, the existing general revenue sharing mechanism would have been used to distribute and administer the $2.3 billion. With some exceptions, the same general rules which apply to general revenue sharing funds would have applied to these funds.

Title II of the substitute would have increased funding for existing national programs that would meet various national infrastructure needs. More specifically, Title II would have done the following:

Increased the authorization for the EPA construction grants program in fiscal year 1984 from $2.4 billion to $3.0 billion, an increase of $600 million or 25 percent;

Raised the obligation ceiling for the ADAP program in fiscal year 1983 from $750 million to $800 million, an increase of $50 million;

Established an obligation ceiling for the ADAP program in fiscal year 1984 of $993.5 million, an increase of $293.5 million over the level recommended in the President's budget;

Established an obligation ceiling of $1.25 billion for the mass transit discretionary program in fiscal year 1984, an increase of $150 million over the level recommended in the President's budget;

Raised the obligation ceiling for the Federal-aid highway program in fiscal year 1984 from $12.75 billion to $14.25 billion, an increase of $1.5 billion.

In addition, Title II of the substitute would have amended, in two ways, the provision in the Surface Transportation Assistance Act of 1982 which provides for a temporary waiver of State matching fund requirements. First, the deadline for repayment would have been extended from the end of fiscal year 1984 to the end of fiscal year 1985. This one-year extension would have made it easier for States to use all of their Federal-aid highway funds, and therefore would have maximized the job creation potential of the Federal-aid highway program. And second, the substitute would have corrected a technical error by making it clear that the temporary waiver applies in both fiscal years 1983 and 1984.

In our view, the substitute had a number of advantages over H.R. 2544 (as reported by the Economic Development Subcommittee).

The substitute relied on existing programs, rather than new programs, to distribute and administer the funds. This should have greatly reduced the delays and costs inherent in starting a new program.

The substitute eliminated the cumbersome, time-consuming, and project-by-project approval process in H.R. 2544. As in the case of general revenue sharing, infrastructure repair funds could be used on a block grant basis, without the need for formal project approval.

The substitute authorized less new budget authority than H.R. 2544. The substitute provided $2.9 billion in new budget authority ($2.3 billion for infrastructure repair and $600 million for EPA construction grants) rather than the $4.0 billion in H.R. 2544.

The substitute contained protections to assure that Federally-funded workers did not displace those persons currently on the payroll. H.R. 2544 did not contain similar protections.

The substitute contained a provision to assure that infrastructure repair funds were not used simply to pay for projects that local governments would have funded on their own within 18 months of the date of enactment. H.R. 2544 did not contain a similar provision.

The substitute required that infrastructure repair funds be used, to the maximum extent feasible, to increase the employment of persons who were currently unemployed, especially those persons who were unemployed for the preceding 16 weeks or longer. H.R. 2544 did not contain any such requirement.

The substitute required that, to the extent practicable, at least ten percent of the infrastructure repair funds be used for part-time employment of unemployed young Americans. H.R. 2544 did not address this problem.

Projects carried out under the substitute would have been completed within nine months rather than the twelve months in H.R. 2544.

The substitute would have had the effect of producing a total investment of about $6.0 billion, as compared to $4.0 billion in H.R. 2544. A summary of these figures is shown on the following table:

FUNDING TABLE

	H.R. 2544 (as introduced)	Minority substitute
1. Authorizations for new budget authority	$4.0 billion	$2.300 billion for infrastructure repair ($770 million for local governments; $1.53 billion for States). $0.600 billion for EPA construction grants for fiscal year 1984. $2.900 billion total.
2. Leveraged funds (not including matching funds for EPA, ADAP, mass transit, or highways).		$0.770 billion for local match for infrastructure repair.
3. Increased obligation ceilings for trust fund programs		+$0.500 billion for local fiscal year 1983.[1] +$0.294 billion for ADAP for fiscal year 1984.[2] +$0.150 billion for mass transit for fiscal year 1984.[2] +$1.500 billion for Federal-aid highways for fiscal year 1984.[1] +$1.994 billion total.

[1] Over obligation ceiling levels in existing law.
[2] Over obligation ceiling levels recommended in President's budget.

As we mentioned previously, the Republican substitute was defeated on a straight party-line vote. However, it did, in our view, have an impact. In a tacit acknowledgement of the serious flaws in H.R. 2544, the Majority leadership developed—at literally the eleventh hour—its own substitute which was then rushed through the Committee the next morning by a vote of 31–19.

ELEVENTH HOUR MAJORITY RESPONSE

Tacitly acknowledging the shortcomings of H.R. 2544, the Majority leadership prepared its own substitute by combining parts from both H.R. 2544 and the Republican substitute, and by developing a whole new distribution formula.

In many ways, this substitute is a significant improvement over H.R. 2544. It reduces the authorized amount of new budget authority from $4.0 billion to $3.2 billion, a reduction of $800 million. Moreover, it incorporates a number of the approaches used in the Republican substitute including the general revenue sharing delivery system and requirements for non-displacement of certain currently employed workers, non-substitution of State and local funds, emphasis on hiring the long-term unemployed, a set-aside for unemployed teenagers, and contracting out to private firms.

However, despite these improvements, the Majority substitute is replete with unworkable, unwise, and unfair provisions. Thus, we are opposed to the enactment of H.R. 2544 in its present form for several reasons:

1. *Lack of careful deliberation.*—H.R. 2544 is not the product of careful Congressional deliberation. Instead, it is a poorly thought-out proposal which simply will not work as intended.

The Majority staff did not start working on the substitute until late in the afternoon of the day before the Full Committee markup. The Minority staff did not receive a copy of the substitute until just before midnight. And finally, Members of the Committee did not see the substitute until the morning of the Full Committee markup. Under these circumstances, there simply was not sufficient time for Members on both sides of the aisle to understand what they were voting on. Moreover, the Majority substitute was not reflective of the expert testimony gleaned during four days of hearings on H.R. 2544 as introduced.

2. *Lower level of total investment.*—The Republican substitute would have leveraged a total investment of more than $6 billion in infrastructure repair. The Democratic substitute would produce an investment of $3.2 billion, not including any amounts that might be leveraged under section 5(a). Even if $800 million were leveraged by section 5(a), the Democratic substitute would still only produce a total investment of about $4 billion, far less than the $6 billion in the Republican substitute.

3. *Higher level of new budget authority.*—The Republican substitute authorized $2.9 billion in new budget authority ($2.3 billion for infrastructure repair and $600 million for EPA construction grants). The Democratic substitute, on the other hand, authorizes $3.2 billion, or $300 million more than the Republican substitute, in new budget authority.

4. *Less reliance on existing infrastructure programs.*—In order to address our national infrastructure needs and create jobs, the Republican substitute proposed $600 million in new funding for the EPA construction grants program and raised the obligation ceilings in the ADAP program by $50 million in fiscal year 1983 and $293.5 million in fiscal year 1984, in the mass transit program by $125 million in fiscal year 1984, and in the Federal-aid highway program by $1.5 billion in fiscal year 1984. The Majority substitute rejected each of these proposals.

In our view, it is a mistake to not use existing programs as part of any strategy to rebuild the Nation's infrastructure or to create public works jobs. This approach would have continued the job-generation impact beyond the one-year authorization in H.R. 2544 as reported.

5. *Increased administrative burden.*—Since public works projects tend to be inherently slow in start-up, we felt it was extremely important to design a program that at least would minimize delays. It is for this reason that we chose to use the existing general revenue sharing delivery system to distribute funds to States and local governments.

One of the major improvements in the Majority substitute is that it also adopts this approach for distributing funds. Unfortunately, however, it also adds quite a bit of red tape—in fact, so much red tape that any potential savings might well be nullified.

Some examples of additional administrative burdens imposed by the Majority substitute are: distributing funds by a complex formula (Sec. 4); imposing a cut-off of $50,000 (Sec. 4); imposing a cut-off of 125 pecent of State per capita income (Sec. 4); imposing an entirely different allocation process in counties with a population of greater than 500,000 (Sec. 4); determining unemployment rates for

each unit of local government (Sec. 5(a)); and withholding 10 percent of each payment for audit purposes (Sec. 6).

6. *Distribution Scheme is Overly Complex.*—Under the Majority substitute, the distribution scheme used to allocate funds among the 50 States, and to then allocate funds among local governments within a State is overly complex and cumbersome. The multi-layered formula is four pages long in the bill and was written in just a few hours the night before the Full Committee markup. It is different from the formula in H.R. 2544 (as reported by the Subcommittee) and the formula in the Majority substitute. It introduces an entirely new concept, together with a formula that is complex and unevaluated.

By contrast, the formula in the Minority substitute is simple and straightforward. Each unit of local government would receive ⅙ of what it received under general revenue sharing in FY 1983. Each State would receive ⅔ of what it would have received under general revenue sharing in FY 1983 if the fully authorized amount had been appropriated. This formula is easy to understand and can be implemented quickly. States and localities could easily anticipate their share of funding under the Minority substitute and reduce the implementation time in the start-up of projects and hiring of the jobless.

7. *Puerto Rico and the territories would receive more than many States.*—Under the Majority substitute Puerto Rico would receive a guaranteed one and one-half percent of the funds and the territories would receive a guaranteed one-half percent of the funds. States would not be treated equally. The formula does not guarantee States any minimum amount. Thus, under the Majority substitute, Puerto Rico would receive more than 28 States and the District of Columbia. The territories would receive more than 14 States and the District of Columbia. (These estimates were based on initial printouts from the Office of General Revenue Sharing.)

8. *Distribution scheme is flawed.*—Some areas of some States, such as Connecticut, with a limited form of county government, might not receive any funding under H.R. 2544, as reported, because of a technical error in drafting the bill. Section 4(b)(3)(B) requires that funds allocated to States be allocated among "counties" on the basis of a certain formula. Furthermore, section 4(b)(3)(C) requires that the amount allocated to each county be apportioned among units of local governments within the country including the "county government". What this scheme fails to take into account is that some States, such as Connecticut, do not have counties. Thus, many areas in Connecticut might not receive any funding regardless of the severity of unemployment.

9. *The $50,000 minimum allocation is ill-advised, and is unfair to smaller communities and rural areas.*—The Majority substitute establishes a minimum allocation of $50,000. That is, a community within a county does not receive any funding under the Majority substitute if its allocation under the formula works out to be less than $50,000. Or state differently, and to use the words of the author of the Majority substitute, these communities get "wiped out". It is our understanding that this minimum allocation will eliminate over 31,000 of the 39,000 general revenue sharing recipients. We believe that this is patently unfair and discriminates

against those unemployed Americans who do not happen to reside in large cities.

The $50,000 threshold seems to be based on the notion that a public works project isn't worth doing unless it costs $50,000 or more. We do not agree with this reasoning, especially when one of the major purposes of the legislation is to create jobs. Generally speaking, the smaller the project the faster the results. Larger projects tend to take a long time to plan and more frequently encounter supply shortages. But smaller, labor-intensive projects, such as painting buildings or filling potholes, can be begun almost immediately. You certainly don't need $50,000 to paint most buildings.

10. *Local match provision is unworkable and hurts small communities.*—In order to qualify for any payment under the Majority substitute, local communities whose unemployment rate is less than the State average must agree to spend an equal amount of local funds on similar projects. This provision is unworkable because of the unavailability of unemployment statistics. It is our understanding that the Bureau of Labor statistics will not be able to produce unemployment data for small communities (e.g., less than 50,000 population), thereby making it very difficult for these communities to demonstrate that their unemployment rate is not less than the State average. For this reason, small communities will probably have to come up with the local match, regardless of whether their unemployment rate is in fact greater than the State average. Large cities, on the other hand, probably will have a much easier time of it, and should be able to get out from under the local match requirement with little effort. At best, this provision will probably be an administrative nightmare; at worst, it could discriminate against small communities and unemployed Americans living in those communities.

11. *The "contracting out" provision is seriously flawed.*—Under the Majority substitute, projects cannot be carried out by government workers, but must instead be performed by contract awarded by competitive bidding. Unlike the Minority substitute, the Majority substitute does not provide any flexibility, even to deal with unusual or special situations. This is a serious flaw. Take, for example, the situation where bids are not received on a project; the Majority substitute is unable to anticipate this problem. Another problem which also is not adequately addressed, arises in the case of the special selection procedures of architects and consulting engineers set forth at 40 U.S.C. 541 et. seq. and other Federal regulations. In many cases, they cannot engage in a competitive bidding process.

12. *Eliminate requirement that on-site labor begin within 60 days.*—The Majority substitute eliminates the requirement contained in both H.R. 2544 (as introduced) and the Minority substitute that on-site labor begin within 60 days. This is most unfortunate. If one of the major purposes of the bill is to put people to

work—and to put them to work quickly—then it makes sense to require that on-site labor begin within 60 days. The fact that this provision was dropped from the Majority substitute—at the last minute and with no explanation—raises significant questions about the real purpose of this legislation.

13. *Unfettered waiver authority could cause serious problems.*—During Full Committee markup, the following language was added to the Majority substitute:

> SEC. 11. Nothing contained herein shall be construed as preventing, impeding, or delaying the expeditious implementation of projects authorized by this Act.

In our view, this language is extremely mischievous. Arguably, it could be interpreted as authorizing the Secretary or local governments to waive various requirements or assurances if necessary for the expeditious implementation of local public works projects. For example, could a local official ignore the prohibition against using government workers if he or she believed that the competitive bidding process would delay expeditious implementation of projects? What about Davis-Bacon Act wage requirements? Or Buy American? Or the requirement to hire currently unemployed workers? Could these requirements also be waived or modified on similar grounds? We do not know how this will turn out, but one thing is for sure: this provision has the potential of generating numerous lawsuits which, in and of themselves, could result in significant delays.

14. *State owned or operated public works facilities not eligible.*—Under the Majority substitute, public works facilities owned by a State or an agency or instrumentality of one or more States would not be eligible for funding even though local governments might want to fund these projects (e.g. state-owned highways). The full impact of this limitation is not clear.

Conceivably, regional water or sewer systems or regional transportation systems might not be eligible for funding simply because they are required by law to be chartered by the State.

15. *No job displacement for private sector employees.*—H.R. 2544 as reported is not as comprehensive in its job displacement protections as the Minority substitute. The Minority substitute extended the job displacement protections to both government and private sector employees whereas H.R. 2544 covers only the former. Many building and trades workers would be protected from the loss of their gainful employment under the Minority substitute. We believe that this protection should extend to both groups of employees.

CONCLUSION

We believe that the best solution to fighting unemployment in this Nation is a healthy economy. The general consensus of opinion is that our recovery from the recession is underway in every major indicator of economic vitality.

In this context, we have attempted to address the plight of the jobless through a rational and prudent proposal. We rejected H.R. 2544, as reported, on the basis of fairness, logic and lack of forethought.

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